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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/275,097	03/24/1999	JOHN C. BURNS	53921/64	9336
23553	7590	08/03/2005	EXAMINER HARPER, KEVIN C	
MARKS & CLERK P.O. BOX 957 STATION B OTTAWA, ON K1P 5S7 CANADA			ART UNIT 2666	PAPER NUMBER

DATE MAILED: 08/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/275,097

Applicant(s)

BURNS ET AL.

Examiner

Kevin C. Harper

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1/5/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6,9-29 and 31-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-22 and 34-46 is/are allowed.
- 6) ☒ Claim(s) 1-6,9-11,23-29 and 31-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Response to Arguments***

Applicant's arguments filed January 5, 2005 have been fully considered but they are not persuasive.

1. Applicant argued that that the Arslan does not provide the proper motivation or suggestion to combine with the Hsing reference to make obvious the claimed invention. However, Hsing is lacking the concept of prioritized connection release, which is taught by Arslan. In Arslan, the highest priority connection is released first. Accordingly, Arslan provides motivation to release the highest priority connection first in Hsing by propagating the connection release message for that connection, as provided for in the method of Hsing. In turn, the lower priority connections of Hsing would be released according to priority. Thus, the combination of Hsing in view of Arslan teaches propagating release messages in a priority sequence.
2. Applicant argued that Arslan does not support “establishing alternate paths first for higher priority connections after a network outage”. However, the invention of Arslan is handling a network failure (col. 1, lines 19-27) where priority is considered in connection restoration (col. 5, lines 23-26; col. 6, lines 49-52).

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 9 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsing (US 6,167,025) in view of Arslan et al. (US 5,444,693).

3. Regarding claim 1 and 23-24, Hsing discloses a method of releasing switched connections from a network entity (Figure 1 and Figure 2, item 220B; Figure 4A) in a signaling

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communications network (col. 13, lines 5-17). The switched connections are routed across the communication network (Figures 1 and 3-4) and are established between source and destination entities (col. 7, lines 35-44) using connection establishment request messages (col. 8, lines 29-60). Upon detection of a failure in a signaling link (col. 13, lines 5-17) where a portion of the link remains operational, propagating connection release messages from the network entity toward the source and destination (Figure 4; Figure 6, item 608; Figure 6, item 616 and Figure 7a, item 714-716) for each connection (Figure 6, item 604; Figure 7, item 709). However, Hsing does not disclose that a priority indicator is associated with each connection and that connections are released in order of priority. Arslan discloses a stored priority indicator for connections in a look-up table (col. 5, lines 12-15 and 23-26; col. 5, lines 3-11) and releasing the connections in sequence according to priority (col. 6, lines 49-52; col. 8, lines 40-47). A message containing the connection's priority indicator and the source and destination of the connection is transmitted (col. 9, lines 29-34 and 47-50; col. 8, lines 48-55 and 59-63). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have priority indicators for connections and propagate connections release messages according to the priority of the connections in the invention of Hsing in order to establish alternate paths first for higher priority connections after a network outage.

4. Regarding claim 9, in Hsing the network is ATM (abstract, lines 1-3).

Claims 2-6, 25-29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsing in view of Arslan applied to claim 1 or 23 above, and further in view of Tiedemann, Jr. et al. (US 5,914,950).

5. Regarding claims 2-3 and 25, Hsing in view of Arslan does not disclose compiling an ordered list or table of every connection and releasing the connections in the ordered release list

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in sequence from highest priority to lowest priority. Tiedemann discloses ordering according to priority a list of users to utilize network resources and selecting in sequence the highest priority user (col. 11, lines 21-30). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have an ordered list of connections for reestablishment in the invention of Hsing in view of Arslan in order to simplify and expedite the determination and selection of the highest priority connections.

6. Regarding claims 4 and 26-28, the limitations of these claims have been addressed in the rejection of claim 1 and 23 above. Further regarding claim 26, additional limitations of this claim have been addressed in the rejection of claims 2-3 above.

7. Regarding claim 5, in Hsing messages are transmitted to the source and destination of the connections (Figure 4; Figure 6, item 608; Figure 6, item 616 and Figure 7a, item 714-716).

8. Regarding claim 6, this limitation has been addressed in the rejection of claim 4 above.

9. Regarding claims 29 and 31, in Hsing the network outage is due to a failure in the ATM signaling link (abstract, lines 1-3; col. 13, lines 5-17).

Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsing in view of Arslan as applied to claim 9 above, and further in view of Hasegawa et al. (US 5,065,399).

Claims 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsing in view of Arslan and Tiedemann as applied to claim 26 above, and further in view of Hasegawa et al. (US 5,065,399).

10. Regarding claims 10-11 and 32-33, Hsing in view of Arslan (or Hsing in view of Arslan and Tiedemann) does not disclose ordering a release list according to traffic rates. Hasegawa discloses giving restoration priority to the highest bandwidth connection (col. 2, lines 32-37 and

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45-50). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to arrange the list of connections according to priority and bandwidth in the invention of Hsing in view of Arslan (or Hsing in view of Arslan and Tiedemann) in order to efficiently reserve spare network bandwidth to accommodate the failed connections.

***Allowable Subject Matter***

11. Claims 12-22 and 34-46 are allowed.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 571-272-3166. The examiner can normally be reached weekdays from 11:00 AM to 7:00 PM ET.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao, can be reached at 571-272-3174. The centralized fax number for the Patent Office is 571-273-8300. For non-official communications, the examiner's personal fax number is 571-273-3166 and the examiner's e-mail address is [kevin.harper@uspto.gov](mailto:kevin.harper@uspto.gov).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications associated with a customer number is available through Private PAIR only. For more information about the PAIR system, see [portal.uspto.gov](http://portal.uspto.gov). Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin C. Harper

July 31, 2005



DANG TON  
PRIMARY EXAMINER